

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL).

October 18, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated September 23, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

We have received an User's request for refund of Sales (R.O.T.) Taxes collected and paid (approx. \$25,000.00) over a past 30 month period.

The request cites exemption applicable to purchases of replacement parts for equipment used in a manufacturing process, specific application is motor vehicles commonly classified as cement mixers.

Are cement mixers registered under the Illinois Vehicle Code exempt as manufacturing units?

The request for refund is for the purchase of tires, tubes, wheels, tire and wheel parts and accessories and related repairs qualifying as replacements on the manufacturing units.

Do the aforementioned products (tires, new or retreads, tubes, wheels, etc.) qualify for R.O.T. exemption in the application of vehicular concrete/cement mixers as replacement parts or for any other reason?

Given the assumption the foregoing is affirmative, comes the matter of the required Exemption Certificate to be provided the vendor/retailer. The nature of this business involves hundred of vehicles and several hundred individual transactions. In effect, an exorbitant paper documentation.

Instead of the 'each transaction' certificate, the user lacking an active registration or resale number, may a blanket form of exemption be acceptable?

We have attached the State Form ST-587, modified to accomplish Exemption and a time period for these transactions. Can this, or something equivalent be used and accepted?

Your reply at your earliest convenience will be appreciated.

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330, enclosed. The exemption also extends to repair and replacement parts as long as the parts are incorporated into machinery and equipment that is exempt under the regulation.

"Manufacturing" is defined as the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, which changes some existing material or materials into a material with a different use, form, or name. These changes must result from the process in question and be substantial and significant.

The mixing of cement by ready-mix trucks is considered to be manufacturing of cement. Van's Material Company, Inc. v. Department of Revenue, 131 Ill. 2d 196, 545 N.E.2d 695 (1989). Repair and replacement parts, such as tires, tubes and wheels, incorporated into the ready mix concrete trucks would be exempt.

Holders of Illinois Business Tax numbers may give blanket exemption certificates in Illinois. As long as the certificate contains all of the information required by the regulation and states the length of time that it is applicable, such as in the example you provided, it is valid.

If a taxpayer pays an amount of tax under the Retailers' Occupation Tax Act that is not due, either as a result of a mistake of fact or an error of law, the taxpayer may file a claim for credit with the Department. Only the persons remitting tax to the Department are authorized to file such claims. No credit shall be given the taxpayer unless the taxpayer shows that it has borne the burden of the tax or has unconditionally repaid the amount of the tax to the customer from whom it was collected. See the enclosed copy of 86 Ill. Adm. Code 130.1501. Under Illinois sales tax laws, suppliers are not required to repay the amount of tax to their customers and file claims for credit. The taxpayer may not require a "deposit" or some other kind of guarantee that the customer will return the amount refunded to the taxpayer if the taxpayer's claim for credit is denied by the Department. This would be a conditional repayment to the customer, which is not allowed. The statute of limitations for filing a claim for credit is 3 to 3 1/2 years and expires in 6 month blocks.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further

ST 99-0313-GIL
Page 3
October 18, 1999

questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.